

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

SAVANNAH COLLEGE OF ART
AND DESIGN, INC.,

Plaintiff,

v.

PHILIPPE HOUEIX,

Defendant.

CASE NO.: 1:02-cv-490

Magistrate Judge Hogan

**JOINT MOTION
UNDER RULE 60(b)**

Plaintiff Savannah College of Art and Design, Inc. and Defendant Philippe Houeix, by and through their undersigned counsel of record, hereby jointly move, pursuant to Fed. R. Civ. P. 60(b), as contemplated in *First National Bank of Salem, Ohio v. Hirsch*, 535 F. 2d 343, 346 (6th Cir. 1976), for relief from this Court's Order and Judgment of December 21, 2004, Docket Entries 72 and 73.

While on appeal, and pursuant to discussions under Rule 33, Rules of the Sixth Circuit, the parties have reached an agreement to settle this matter. One of the terms of this agreement is that the parties jointly request that the Court vacate its final Judgment and Order entered in the Lawsuit.

In order to make this settlement possible, therefore, the parties respectfully request this Court vacate the Order and Judgment of December 21, 2004. Further, the parties request this Court to indicate its willingness to grant this motion by entry of the attached order saying it is

“disposed to grant the motion” if the Court of Appeals remands the case for that purpose. *See First National Bank of Salem*, 535 F.2d at 346.

Respectfully submitted this 25th day of July 2005.

/s/ J. Patrick Elsevier

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ORDER

This matter came to be heard upon the joint motion of the parties pursuant to Fed. R. Cir P. 60(b), as contemplated in *First National Bank of Salem, Ohio v. Hirsch*, 535 F.2d 343 (6th Cir. 1976), asking this Court to vacate this Court's Order and Judgment of December 21, 2004, Docket Entries 72 and 73.

Considering the parties desire to settle and the entire record, the Court is of the opinion, and so finds, that should the case be remanded to it by the Court of Appeals for the Sixth Circuit, this Court is inclined to grant the relief requested.

IT IS, THEREFORE, ORDERED BY THE COURT that if this case is remanded to the District court by the Court of Appeals, this court is disposed to grant the parties' 60(b) motion.

ENTERED this _____ day of _____, 200_.

UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

This is to certify that the foregoing Joint Motion Under Rule 60(b) and Proposed Order was electronically served upon the following counsel of record on this 25th day of July, 2005:

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